

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JAMES D. ABNEY

c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

and

BENJAMIN ACUNA

c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

and

GONZALO ERICK AGUILAR-VARGAS

c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

and

WENDELL D. BALL

c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

and

BRANDON BANKS

c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

and

JORGE LUIS BENITEZ-FLORES

c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

and

Civil Action No. _____

Judge _____

ALLEN DWAYNE BERRY
c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

and

DARRYL L. BLACK
c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
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and

DEANDRE BLAKELY
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and

JUSTIN BRANHAM
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and

JOHANN BRITO
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and

RODNEY BROADNAX
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and

ROMAN L. BROWN
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and

SEAN BROWN

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and

ANTOINE BYRD

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and

RICHARD TIMOTHY CARROLL

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and

JALEN T. CHAPMAN

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and

JONATHAN CHOATE

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and

FRED CLOUD

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and

ROBERT M. CULBERTSON

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and

MARQUWELL LAMAR DUNCAN

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and

JONAS M. EDMONDS

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and

SEAN PATRICK FARRELLY

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and

ALVIN LEMUELL FEWELL

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and

DAVID FULTZ

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and

**MAXIMILIANO CRECENCI GABRIEL-
QUERIAPA**

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and

JUSTIN H. GAINES

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and

ERNESTO GODINEZ

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and

ARTHUR B. GODSON

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and

FERMIN GOMEZ-JIMINEZ

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and

RONDELL HACKETT

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and

SHAWN HADDEN

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and

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and

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and

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HOWARD KEITH JACKSON

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and

JAYSEAN NAMIR JACKSON

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ZAKEE JOHNSON

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RICHARD ANTHONY JONES

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RICKY JONES

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and

TOBY JONES

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ROBERT LAW

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and

ROBERT McCAMURY

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and

DEMETRIUS L. McKINNEY

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CORY McNEAL

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and

JOSE MEIJA

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MONTEZ MENIFEE

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DERON MITCHELL

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BILAL I. MUHAMMAD

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JASON D. OVERLY

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and

HAROLD OWENS

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LAQUINTON PERRY

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and

JONATHAN BRIAN POYNOR

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and

LARRY PRATT

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and

ARNULFO RAMIREZ

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and

MUJAHID RASHID

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and

EMORY EDWARD REED

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and

CAESAR RICE

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and

JERRAMEY LYNDELL ROPER

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and

TOMMY M. SLAUGHTER

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JARRAIL L. SMITH

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and

WAYNE SPEAR

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and

TYREE TERRELL

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and

CHARLES MICHAEL THOMAS

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and

MARKELL THOMAS

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and

TREVAZ THOMPSON

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WALTER LAMONT THORNE-PRICE

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and

QUINN R. TURNER

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MATTHEW TYLER

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MARQUIS WATTS

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and

RALPH JEFFREY WEATHINGTON

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and

CHRISTOPHER LEON WECKMAN

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and

ANTHONY J. WHITE

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and

ANTHONY WIGGINS

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and

LAMONT WILLIAMS

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and

RANDY WILLIAMS

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and

BIJAN WOODLEY

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One South Street, 30th Floor
Baltimore, Maryland 21202

and

STEPHON A. YATES

c/o Murphy, Falcon & Murphy
One South Street, 30th Floor
Baltimore, Maryland 21202

Plaintiffs,

v.

**FEDERAL CORRECTIONAL
INSTITUTION MCDOWELL**

101 Federal Drive
Welch, WV 24801

SERVE ON:

Named Defendant

Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**FEDERAL CORRECTIONAL
INSTITUTION ALLENWOOD LOW**

2 US-15
Allenwood, PA 17810

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION BECKLEY**

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Beaver, WV 25813

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and

**FEDERAL CORRECTIONAL
INSTITUTION BENNETTSVILLE**

696 Muckerman Road
Bennettsville, SC 29512

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION BUTNER MEDIUM I**
2 Old 75 Highway
Butner, NC 27509

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION EDGEFIELD**
501 Gary Hill Road
Edgefield, SC 29824

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION FOREST CITY MEDIUM**
1400 Dale Bumpers Road
Forrest City, AR 72335

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION FORT DIX**
5756 Hartford Street & Pointville Road
Fort Dix, NJ 08640

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and

**FEDERAL CORRECTIONAL
INSTITUTION HERLONG**

741-925 Access Road A-25
Herlong, CA 96113

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and

**FEDERAL CORRECTIONAL
INSTITUTION MANCHESTER**

805 Fox Hollow Road
Manchester, KY 40962

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION MCKEAN**

6975 PA-59
Lewis Run, PA 16738

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION MEMPHIS**

1101 John A Denie Road
Memphis, TN 38134

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION OXFORD**

350 Elk Avenue
Oxford, WI 53952

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION PETERSBURG MEDIUM**

1060 River Road
Hopewell, VA 23860

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION RAY BROOK**

128 Ray Brook Road
Ray Brook, NY 12977

SERVE ON:

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and

**FEDERAL CORRECTIONAL
INSTITUTION YAZOO CITY**

2225 Haley Barbour Parkway
Yazoo City, MS 39194

SERVE ON:

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and

**FEDERAL MEDICAL CENTER
LEXINGTON**

3301 Leestown Road
Lexington, KY 40511

SERVE ON:

Named Defendant

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Baltimore, MD 21201-2692

and

CORECIVIC, INC.

2405 York Road, Suite 201
Lutherville Timonium, MD 21093-2264

SERVE ON:

The Corporation Trust, Incorporated,
Resident Agent
2405 York Road, Suite 201
Lutherville Timonium, MD 21093-2264

and

**METROPOLITAN DETENTION
CENTER**

80 29th Street
Brooklyn, NY 11232

SERVE ON:

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Baltimore, MD 21201-2692

and

**RESIDENTIAL REENTRY
MANAGEMENT DETROIT,**

8333 Townsend Street
Detroit, MI 48213

SERVE ON:

Named Defendant

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U.S. Department of Justice
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Baltimore, MD 21201-2692

and

**RESIDENTIAL REENTRY
MANAGEMENT PITTSBURGH
1000 Liberty Avenue, Suite 1315
Pittsburgh, PA 15222**

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and

UNITED STATES PENITENTIARY LEE
Lee County Industrial Park
Hickory Flats Road
Pennington Gap, VA 24277

SERVE ON:

Named Defendant

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Baltimore, MD 21201-2692

and

**UNITED STATES PENITENTIARY
LEAVENWORTH**

1300 Metropolitan Avenue
Leavenworth, KS 66048

SERVE ON:

Named Defendant

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U.S. Department of Justice
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36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**UNITED STATES PENITENTIARY
LEWISBURG**

2400 Robert F Miller Drive
Lewisburg, PA 17837

SERVE ON:

Named Defendant

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36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**UNITED STATES PENITENTIARY
MARION**

4500 Prison Road
Marion, IL 62959

SERVE ON:

Named Defendant

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U.S. Department of Justice
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36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**UNITED STATES PENITENTIARY
POLLOCK**

1100 Airbase Road
Pollock, LA 71467

SERVE ON:

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Baltimore, MD 21201-2692

and

**UNITED STATES PENITENTIARY
TERRA HAUTE**

4700 Bureau Road South
Terre Haute, IN 47802

SERVE ON:

Named Defendant

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U.S. Department of Justice
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Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
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and

FEDERAL BUREAU OF PRISONS

Central Office
320 First Street, NW
Washington, DC 20534

SERVE ON:

Named Defendant

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Attorney General of the United States
U.S. Department of Justice
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Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**COLETTE S. PETERS, in her official
capacity as DIRECTOR OF FEDERAL
BUREAU OF PRISONS**

Central Office
320 First Street, NW
Washington, DC 20534

SERVE ON:

Named Defendant

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U.S. Department of Justice
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Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**UNITED STATES MARSHALS
SERVICE**

1215 S. Clark Street
Arlington, VA 22202

SERVE ON:

Named Defendant

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Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**RONALD L. DAVIS, in his official
capacity as DIRECTOR
OF UNITED STATES MARSHALS
SERVICE**

1215 S. Clark Street
Arlington, VA 22202

SERVE ON:

Named Defendant

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U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**CHRIS GOMEZ, in his official
capacity as REGIONAL DIRECTOR OF
THE MID-ATLANTIC REGIONAL
OFFICE OF FEDERAL BUREAU OF
PRISONS**

Mid-Atlantic Regional Office
302 Sentinel Drive
Annapolis Junction, MD 20701

SERVE ON:

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Erek L. Barron
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District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**MELISSA RIOS, in her official
capacity as REGIONAL DIRECTOR OF
THE WESTERN REGIONAL OFFICE
OF FEDERAL BUREAU OF PRISONS**
Western Regional Office
7338 Shoreline Drive
Stockton, CA 95219

SERVE ON:

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Baltimore, MD 21201-2692

and

**SHANNON PHELPS, in her official
capacity as REGIONAL DIRECTOR OF
THE SOUTHEAST REGIONAL OFFICE
OF FEDERAL BUREAU OF PRISONS**
Southeast Regional Office
3800 Camp Creek Pike SW Building 2000
Atlanta, GA 30331

SERVE ON:

Named Defendant

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U.S. Department of Justice
950 Pennsylvania Avenue, NW
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Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**HERIBERTO TELLEZ, in his official
capacity as REGIONAL DIRECTOR OF
THE SOUTH-CENTRAL REGIONAL
OFFICE OF FEDERAL BUREAU OF
PRISONS**

South Central Regional Office
US Armed Forces Reserve Cmpl.
Grand Prairie, TX 75051

SERVE ON:

Named Defendant

Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**JAMES PETRUCCI, in his official
capacity as REGIONAL DIRECTOR OF
THE NORTHEAST REGIONAL OFFICE
OF FEDERAL BUREAU OF PRISONS**

Northeast Regional Office
U.S. Custom House, 7th Floor
Philadelphia, PA 19106

SERVE ON:

Named Defendant

Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

and

**ANDRE MATEVOUSIAN, in his official
capacity as REGIONAL DIRECTOR OF
THE NORTH CENTRAL REGIONAL
OFFICE OF FEDERAL BUREAU OF
PRISONS**

North Central Regional Office
400 State Avenue, Suite 800
Kansas City, KS 66101

SERVE ON:

Named Defendant

Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Erek L. Barron
United States Attorney
District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201-2692

Defendants.

COMPLAINT FOR MANDAMUS RELIEF

NOW COME Plaintiffs, (“Plaintiffs”), by counsel, Scott S. Segal, Jason P. Foster, C. Edward Amos, II, The Segal Law Firm, and William H. Murphy, Jr., Andrew K. O’Connell, Ronald Richardson, and the law firm of Murphy, Falcon & Murphy, and for their Complaint for Mandamus Relief against Defendants Federal Correctional Institution (“FCI”) McDowell, FCI Allenwood Low, FCI Beckley, FCI Bennettsville, FCI Butner Medium I, FCI Edgefield, FCI Forest City Medium, FCI Fort Dix, FCI Herlong, FCI Manchester, FCI McKean, FCI Memphis, FCI Oxford, FCI Petersburg Medium, FCI Ray Brook, FCI Yazoo City, Federal Medical Center Lexington (“FMC Lexington”), Corecivic, Inc. (“Corecivic”), Metropolitan Detention Center (“MDC Brooklyn”), Residential Reentry Management Detroit (“RRM Detroit”), Residential Reentry Management Pittsburgh (“RRM Pittsburgh”), United States Penitentiary (“USP”) Lee, USP Leavenworth, USP Lewisburg, USP Marion, USP Pollock, USP Terra Haute, (collectively referred to as the “Prison Defendants”), Federal Bureau of Prisons (the “BOP”) and Colette S. Peters in her official capacity as Director of Bureau of the BOP (the “BOP Director”), United States Marshals Service (“USMS”), and Ronald L. Davis, in his official capacity as Director of the USMS (“USMS Director”), Chris Gomez, in his official capacity as Regional Director Of The Mid-Atlantic Regional Office Of Federal Bureau Of Prisons, Melissa Rios, in her official capacity as Regional Director Of The Western Regional Office Of Federal Bureau Of Prisons, Shannon Phelps, in her official capacity as Regional Director Of The Southeast Regional Office Of Federal Bureau Of Prisons, Heriberto Tellez, in his official capacity as Regional Director Of The South-Central Regional Office Of Federal Bureau Of Prisons, James Petrucci, in his official capacity as Regional Director Of The Northeast Regional Office Of Federal Bureau Of Prisons and Andre Matevousian, in his official capacity as Regional Director Of The North Central Regional Office

Of Federal Bureau Of Prisons (collectively referred to as the “Regional Director Defendants”) state as follows:

I. The Parties

1. Plaintiffs Benjamin Acuna, Wendell D. Ball, Brandon Banks, Allen Dwayne Berry, Darryl L. Black, Deandre Blakely, Johann Brito, Rodney Broadnax, Jonathan Choate, Fred Cloud, Robert M. Culbertson, Marquwell Lamar Duncan, Maximiliano Crecenci Gabriel-Queriapa, Ernesto Godinez, Rondell Hackett, Shawn Hadden, Herbert Clifton Hector, Kaleb Ray-Quan Holmes, Devontae D. Horton, Gerald Huggins, Larry Scott Humphreys, Lamont Hunter, Brandon M. Jackson, Jaysean Namir Jackson, Zakee Johnson, Toby Jones, Robert Law, Demetrius L. McKinney, Cory McNeal, Jose Meija, Deron Mitchell, Bilal I. Muhammad, Harold Owens, Laquinton Perry, Larry Pratt, Arnulfo Ramirez, Emory Edward Reed, Caesar Rice, Tommy M. Slaughter, Jarraill L. Smith, Wayne Spear, Charles Michael Thomas, Quinn R. Turner, Christopher Leon Weckman, Anthony Wiggins, Lamont Williams, Randy Williams, and Bijan Woodley are presently and, at all times relevant to this civil action, were incarcerated at the federal correctional facility operated by FCI McDowell, located at 101 Federal Drive, Welch, McDowell County, West Virginia (the “Facility”).

2. Plaintiff Ricky Jones is presently incarcerated at FCI Allenwood Low, and was, at all times relevant to this civil action, incarcerated at the Facility.

3. Plaintiffs Arthur B. Godson, Trevaz Thompson and Anthony J. White are presently incarcerated at FCI Beckley and were, at all times relevant to this civil action, incarcerated at the Facility.

4. Plaintiff Jonathan Dynell Jones is presently incarcerated at FCI Bennetsville, and was, at all times relevant to this civil action, incarcerated at the Facility.

5. Plaintiff Jason D. Overly is presently incarcerated at FCI Butner Medium I and was, at all times relevant to this civil action, incarcerated at the Facility.

6. Plaintiff Marquis Watts is presently incarcerated at FCI Edgefield and was, at all times relevant to this civil action, incarcerated at the Facility.

7. Plaintiff Jonathan Brian Poynor is presently incarcerated at FCI Forest City Medium and was, at all times relevant to this civil action, incarcerated at the Facility.

8. Plaintiff Jorge Luis Benitez-Flores is presently incarcerated at FCI Fort Dix, and was, at all times relevant to this civil action, incarcerated at the Facility.

9. Plaintiff Joshua Lamar Hardy is presently incarcerated at FCI Herlong, and was, at all times relevant to this civil action, incarcerated at the Facility.

10. Plaintiff Richard Timothy Carroll, is presently incarcerated at FCI Manchester, and was, at all times relevant to this civil action, incarcerated at the Facility.

11. Plaintiff Ralph Jeffrey Weathington is presently incarcerated at FCI McKean and was, at all times relevant to this civil action, incarcerated at the Facility.

12. Plaintiffs James D. Abney, Richard Anthony Jones, Montez Meniffee, Mujahid Rashid, Jerramey Lyndell Roper, and Tyree Terrell are presently incarcerated at FCI Memphis, and were, at all times relevant to this civil action, incarcerated at the Facility.

13. Plaintiff David Fultz and Markell Thomas are presently incarcerated at FCI Oxford and was, at all times relevant to this civil action, incarcerated at the Facility.

14. Plaintiffs Antoine Byrd and Alvin Lemuell Fewell are presently incarcerated at FCI Petersburg Medium, and were, at all times relevant to this civil action, incarcerated at the Facility.

15. Plaintiff Stephon A. Yates is presently incarcerated at FCI Ray Brook and was, at all times relevant to this civil action, incarcerated at the Facility.

16. Plaintiff David C. Johnson, is presently incarcerated at FCI Yazoo City, and was, at all times relevant to this civil action, incarcerated at the Facility.

17. Plaintiff Jalen T. Chapman is presently incarcerated at FMC Lexington, 3301 Leestown Road, Lexington, KY 40511 and was, at all times relevant to this civil action, incarcerated at the Facility.

18. Plaintiff Justin H. Gaines is presently incarcerated at Cimarron Correctional Facility, 3200 Sout Kings Highway, Cushing, OK 74023 and was, at all times relevant to this civil action, incarcerated at the Facility.

19. Plaintiff Sean Brown is presently incarcerated at MDC Brooklyn, and was, at all times relevant to this civil action, incarcerated at the Facility.

20. Plaintiff Howard Keith Jackson is presently incarcerated at RRM Detroit, and was, at all times relevant to this civil action, incarcerated at the Facility.

21. Plaintiff Marquwell Lamar Duncan and Justin Keith Branham is presently incarcerated at Pittsburgh RRM, Dismas Charties, and was, at all times relevant to this civil action, incarcerated at the Facility.

22. Plaintiffs Gonzalo Erick Aguilar-Vargas, Shermaine Maurice Hammond and Walter Lamont Thorne-Price are presently incarcerated at USP Lee and were, at all times relevant to this civil action, incarcerated at the Facility.

23. Plaintiff Fermin Gomez-Jiminez, is presently incarcerated at USP Lewisburg, and was, at all times relevant to this civil action, incarcerated at the Facility.

24. Plaintiffs Jonas M. Edmonds and Sean Patrick Farrelly are presently incarcerated at USP Marion, and were, at all times relevant to this civil action, incarcerated at the Facility.

25. Plaintiff Robert McCamury is presently incarcerated at USP Leavenworth and was, at all times relevant to this civil action, incarcerated at the Facility.

26. Plaintiff Matthew Tyler is presently incarcerated at USP Pollock and was, at all times relevant to this civil action, incarcerated at the Facility.

27. Plaintiff Roman L. Brown is presently incarcerated at USP Terre Haute, and was, at all times relevant to this civil action, incarcerated at the Facility.

28. Defendant FCI McDowell operates the Facility located at 101 Federal Drive, Welch, West Virginia.

29. Defendant FCI Allenwood Low is located at RR 15, White Deer, Pennsylvania.

30. Defendant FCI Beckley is located at 1600 Industrial Road, Beaver, West Virginia.

31. Defendant FCI Bennettsville is located at 696 Muckerman Road, Bennettsville, South Carolina.

32. Defendant FCI Butner Medium I is located at 1000 Old 75 Highway, Butner, North Carolina.

33. Defendant FCI Edgefield is located at 501 Gary Hill Road, Edgefield, South Carolina.

34. Defendant FCI Forest City Medium is located at 1400 Dale Bumpers Road, Forrest City, Arizona.

35. Defendant FCI Fort Dix is located at 5756 Hartford & Pointville Road, Joint Base MDL, NJ 08640.

36. Defendant FCI Herlong is located at 741-925 Herlong Access Road, Herlong, California.

37. Defendant FCI Manchester is located at 805 Fox Hollow Road, Manchester, Kentucky.

38. Defendant FCI McKean is located at 6975 Route 59, Lewis Run, Pennsylvania.

39. Defendant FCI Memphis is located at 1101 John A Denie Rd, Memphis, Tennessee.

40. Defendant FCI Oxford is located at County Road G & Elk Avenue, Oxford, Wisconsin.

41. Defendant FCI Petersburg Medium is located at 1060 River Road, Hopewell, Virginia.

42. Defendant FCI Ray Brook is located at 128 Ray Brook Road, Ray Brook, New York.

43. Defendant FCI Yazoo City is located at 2225 Haley Barbour Parkway, Yazoo City, Mississippi.

44. Defendant FMC Lexington is located at 3301 Leestown Road, Lexington, Kentucky.

45. Defendant Corecivic, Inc. is a private company located in Timonium Maryland to operate Cimarron Correctional Facility located at 3200 S. Kings Highway, Cushing, Oklahoma..

46. Defendant MDC Brooklyn is located at 80 29th Street, Brooklyn, New York.

47. Defendant RRM Detroit is located at 8333 Townsend Street, Detroit, Michigan 48213.

48. Defendant RRM Pittsburgh is located at 1000 Liberty Avenue, Suite 1315, Pittsburgh, Pennsylvania.

49. Defendant USP Lee is located at Lee County Industrial Park Hickory Flats Road, Pennington Gap, Virginia.

50. Defendant USP Leavenworth is located at 1300 Metropolitan Avenue, Leavenworth, Kansas.

51. Defendant USP Lewisburg is located at 2400 Robert F. Miller Drive, Lewisburg, Pennsylvania.

52. Defendant USP Marion is located at 4500 Prison Road, Marion, Illinois.

53. Defendant USP Pollock is located at 1000 Airbase Road, Pollock, Louisiana.

54. Defendant USP Terra Haute is located at 4700 Bureau Road North, Terre Haute, Indiana.

55. Defendant BOP is the agency of the federal government responsible for the operations of federal prisons, including the Prison Defendants and the Facility. The BOP is headquartered at 320 1st Street NW, Washington, DC 20534.

56. Defendant Colette S. Peters, BOP Director is responsible for and oversees the operations of FCI McDowell, including the operation of the Facility. The Director is headquartered at 320 1st Street NW, Washington, DC.

57. Defendant USMS is the agency of the federal government responsible for the operations of the USMS, including the Defendant NOCC. The USMS is headquartered at 1215 S. Clark Street, Arlington, Virginia.

58. Defendant Ronald L. Davis, USMS Director is the federal agent responsible for and oversees the operations of NOCC. The Director is headquartered at 1215 S. Clark Street, Arlington, Virginia.

59. Defendant Chris Gomez is responsible for and oversees the operations of the Bureau of Prison's facilities located within the Mid-Atlantic region of the United States.

Defendant Chris Gomez performs his official duties at 302 Sentinel Drive Annapolis Junction, Maryland 20701.

60. Defendant Melissa Rios is responsible for and oversees the operations of the Bureau of Prison's facilities located within the Western region of the United States. Defendant Melissa Rios performs her official duties at 7338 Shoreline Drive Stockton, CA 95219.

61. Defendant Shannon Phelps is responsible for and oversees the operations of the Bureau of Prison's facilities located within the Southeast region of the United States. Defendant Shannon Phelps performs her official duties at 3800 Camp Creek Pike SW Building 2000 Atlanta, GA 30331.

62. Defendant Heriberto Tellez is responsible for and oversees the operations of the Bureau of Prison's facilities located within the South Central region of the United States. Defendant Heriberto Tellez performs his official duties at US Armed Forces Reserve Cmpl. Grand Prairie, TX 75051.

63. Defendant James Petrucci is responsible for and oversees the operations of the Bureau of Prison's facilities located within the Northeast region of the United States. Defendant James Petrucci performs his official duties at U.S. Custom House, 7th Floor, Philadelphia, PA 19106.

64. Defendant Andre Matevousian is responsible for and oversees the operations of the Bureau of Prison's facilities located within the North Central region of the United States. Defendant Andre Matevousian performs his official duties at 400 State Avenue, Suite 800, Kansas City, MO 66101.

65. The Regional Director Defendants provide oversight and technical assistance to the Prison Defendants located in their respective regions of the country. The Regional Director

Defendants provide operational oversight to the Prison Defendants, including, but not limited to, the provision of Plaintiffs' health care.

66. The Regional Director Defendants elected to forgo fulsome medical evaluations of the Plaintiffs following their acute carbon monoxide poisoning described more fully below.

II. Jurisdiction and Venue

67. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiffs' claims for relief arise under the U.S. Constitution and federal law and 28 U.S.C. § 1361 because, under the Eighth Amendment of the U.S. Constitution, Defendants ". . . must provide humane conditions of confinement; prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must 'take reasonable measures to guarantee the safety of the inmates,' *Hudson v. Palmer*, 468 U.S. 517, 526-527, 82 L. Ed. 2d 393, 104 S. Ct. 3194 (1984)." *Farmer v. Brennan*, 511 U.S. 825, 832, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994) (some internal citations omitted). A similar duty exists under 18 USCS § 4042(a): "The Bureau of Prisons, under the direction of the Attorney General, shall - . . . (2) provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise []." *Id.*

68. The Court has personal jurisdiction over Defendant Chris Gomez because he performs his official duties as a regional director for the Bureau of Prisons at 302 Sentinel Drive Annapolis Junction, Maryland 20701, which is within jurisdiction of the United States District Court for the District of Maryland. The Court has personal jurisdiction over the remaining Defendants pursuant to *Stafford v. Briggs*, 444 U.S. 527, 100 S. Ct. 774, 63 L. Ed. 2d 1 (1980), as this is a mandamus action, and Defendants are sued in their official capacity only.

69. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) as Defendant Chris Gomez, a party to this case in his official capacity, resides in Maryland as well as 28 U.S.C. § 1391(b)(3) as there is no one district where venue is proper for every Defendant.

70. Some Plaintiffs have exhausted all their administrative remedies utilizing the process set forth in 28 CFR 542.10, *et seq.*, and were denied the relief sought. The remaining Plaintiffs are at various stages in the process of exhausting their administrative remedies. However, given the facts that all Plaintiffs were harmed in the same event alleged below, all Plaintiffs seek the same relief, and Plaintiffs who have exhausted their administrative remedies were denied the relief sought, exhaustion of administrative remedies for the remaining Plaintiffs is excused because Defendant FCI McDowell has rendered the relief sought unavailable. *See Ross v. Blake*, 578 U.S. 632, 633, 136 S. Ct. 1850, 195 L. Ed. 2d 117 (2016) (finding an exception to the Prison Litigation Reform Act’s requirement of exhaustion of administrative remedies where a remedy is rendered unavailable in certain instances, such as, “. . . when (despite what regulations or guidance materials may promise) [the administrative procedure] operates as a simple dead end — **with officers unable or consistently unwilling to provide any relief to aggrieved inmates.**”) (Internal citation omitted) (emphasis added).

III. Allegations Common to All Counts

71. Defendants are required by both the United States Constitution and federal law to provide federal inmates, such as Plaintiffs, suitable and adequate medical care.

72. From about August 8, 2021 until about August 11, 2021, poisonous carbon monoxide gas (“CO”) leaked from the piping and/or ducting on a Maxim 3 Water Heater on the fourth level of Housing Unit 3 of the Facility.

73. The CO leak triggered both audible and strobe alarms.

74. Plaintiffs were exposed to dangerously high levels of CO at or near the time the audible and strobe alarms were activated.

75. Shortly after the CO leak was detected, employees of FCI McDowell silenced the audible alarms but the strobe alarms remained activated.

76. Plaintiffs were briefly released into the yard of the Facility (the “Yard”) before being returned to their cells.

77. Almost immediately after their initial exposure, Plaintiffs exhibited obvious signs of acute CO poisoning including, but not limited to, headache, nausea, vomiting, dizziness, malaise, fatigue, muscle aches, slowed mentation, confusion, incontinence and loss of consciousness.

78. Plaintiffs’ CO exposure-related symptoms were readily apparent to the Prison Guard Defendants.

79. Plaintiffs reported their respective medical conditions to the Prison Guard Defendants.

80. After their brief release into the Yard, the Prison Guard Defendants returned Plaintiffs to their respective cells.

81. Upon information and belief, numerous security cameras captured both Plaintiffs’ initial CO exposure in their respective cells and the near-immediate manifestation of Plaintiffs’ CO exposure-related symptoms after they were briefly released into the Yard.

82. Between August 16, 2021 and September 15, 2021, Plaintiffs’ counsel sent five preservation letters to Defendants requesting, among other things, that all audio and video records related to the CO leak be preserved.

83. Upon information and belief, the Prison Guard Defendants returned Plaintiffs to their respective cells without properly ensuring that the dangerous conditions in the Facility were corrected.

84. Due to the Prison Guard Defendants' failure to mitigate the hazardous created by the CO leak, Plaintiffs' exposure to extremely high levels of CO continued over the next several days.

85. Plaintiffs initially received a cursory medical evaluation and were promptly returned to confinement.

86. Since their initial exposure, Plaintiffs have received minimal medical treatment and have never been properly medically evaluated.

87. Plaintiffs' counsel has repeatedly attempted to meet with Plaintiffs but have repeatedly been denied access to the Facility by Defendants.

88. Dr. Lindell K. Weaver, M.D., is medical doctor with decades of experience in evaluating and treating patients who have been exposed to CO. See Affidavit of Dr. Lindell K. Weaver, M.D., attached hereto as Exhibit 1.

89. "CO is a gas produced by incomplete combustion. It is colorless, tasteless, and odorless to human senses. The density of carbon monoxide is slightly less than that of air and it distributes rapidly within spaces, such as rooms or apartments." *Id.*

90. "CO levels are measured in parts per million (PPM), and several governmental agencies have published maximum exposure levels over a given period of time. They include:

- Occupational Safety and Health Administration (OSHA)
 - 50 ppm over 8 hour period
- National Institute for Occupational Safety and Health (NIOSH)
 - 35 ppm over 8 hour period
- Environmental Protection Agency (EPA)
 - 9 ppm over 8 hour period; outdoor

- World Health Organization (WHO)
- 15 ppm over 8 hour period; indoor”

Id.

91. “Symptoms and signs of carbon monoxide poisoning are dependent upon the ambient carbon monoxide level, the duration of exposure, mass of the individual and comorbidities of the exposed person. At lower, non-lethal levels, common symptoms include headache, nausea, vomiting, dizziness, malaise, fatigue, muscle aches, slowed mentation, and confusion. If ambient levels are sufficiently high, incontinence, unconsciousness or death can follow.” *Id.*

92. “Carbon monoxide damages tissue through several mechanisms:

- 1) Hypoxia, carbon monoxide binds to iron molecules within hemoglobin interfering with oxygen delivery to tissues. If hypoxia is enough, cellular necrosis can ensue, as well as local inflammation. The hypoxia can also result in high levels of excitatory amino acid neurotransmitters, which damage connected nerve cells.
- 2) Left-ward shift of the oxyhemoglobin dissociation curve, further reducing oxygen availability at the tissue level.
- 3) Reduction of cellular adenosine triphosphate production, which contributes to cellular energy deprivation, abnormal function and cellular death.
- 4) Release of myelin basic protein from myelin coating neuronal axons. The myelin basic protein undergoes adduct formation and attracts inflammatory lymphocytes to the area of damage, which destroy and damage nerve cells
- 5) Inflammation. - Carbon monoxide causes neutrophils to release oxygen radical molecules which can damage cellular membranes and interfere with protein synthesis.
- 6) Inflammation – Carbon monoxide causes an increase in peroxynitrite, a highly oxidizing substance that damages endothelium.
- 7) Inflammation – Carbon monoxide poisoning causes acute changes in blood, including alterations of: acute phase reactants, proteins associated with inflammatory responses (chemokines/cytokines and interleukins), growth factors, hormones, and an array of auto-antibodies.

- 8) Inflammation – Carbon monoxide triggers elevations of microparticles that activate neutrophils which then cause tissue injury.
- 9) Apoptosis – Carbon monoxide accelerates apoptosis, or premature, programmed cellular death in the hippocampus of the brain.
- 10) Release of iron into brain tissue - Iron is toxic if not properly sequestered within the body. Its release can cause intense inflammation and brain tissue destruction.”

Id.

93. “CO poisoning can result in brain injury, as well as injuries to other organs and tissues. Even patients that have apparent recovery after poisoning can develop problems days, to weeks, months and, even, years later.” *Id.*

94. “Those with brain injury from CO poisoning manifest problems like those with adverse sequelae following other types of brain injury, such as trauma.” *Id.*

95. “Commonly reported symptoms of patients with sequelae following carbon monoxide poisoning include persistent headaches, dizziness, imbalance, sleep disturbances, cognitive impairments, generally in the domains of short-term memory, executive function and speed of processing, impaired decision-making, affective problems, other neurological sequelae and frequently complain of pain. Motor and sensory abnormalities can occur, as well as vestibular dysfunction.” *Id.*

96. According to Dr. Weaver:

- a. Carbon monoxide (CO) is poisonous.
- b. Exposure to CO can cause serious and permanent injury to an individual’s brain, heart, lungs, eyes, auditory system, and other body tissue.
- c. Individuals with a history of carbon monoxide poisoning need to undergo multidisciplinary medical evaluations following exposure to determine the extent of their injuries and develop a treatment plan.

- d. Curative therapy for carbon monoxide-related brain injury and its associated adverse sequelae does not exist.
- e. Treatment for CO poisoning should be directed to treat specific symptoms, rehabilitation and helping the patient cope and adapt to their disabilities, which are permanent in nature. Cognitive and vocational rehabilitation can be helpful. Psychotherapy and psychopharmacology approaches can be helpful for the affective problems these patients manifest. Headache management by specialist is important for patients with persistent and often refractory headaches. Visual and balance rehabilitation can be helpful. Sleep disorders are common, and management is important. Patients with cardiac injury need assessment and therapy guided by cardiologists.
- f. A failure to appropriately evaluate and treat individuals poisoned by CO will likely result in increased adverse sequela.

Id. at pp. 1-2.

97. Based on the harmful and lasting effects of CO poisoning, Dr. Weaver recommends the following evaluation and treatment of Plaintiffs: “A medical evaluation of an individual poisoned with carbon monoxide requires a multi-disciplinary approach, including the following:

Vestibular testing
Speech
Auditory
Psychiatry
Cardiac
Lung function
Neuropsychiatry
Neurology
Neuro-optometry
Electroencephalogram (EEG)
Visual Evoked Potential/Response (VEP)
Labs
Imaging studies (brain and heart)

Brain imaging of individuals poisoned by carbon monoxide can and often reveals hippocampal atrophy, white matter ischemic lesions, cortical ischemic lesions, pineal cysts, dilated perivascular spaces, abnormal spectroscopy (cell death) and abnormal diffusion tensor imaging (white matter injury).” *Id.* (bold in original) (the “Diagnostic Protocol”).

98. Dr. Weaver further states that, “[g]iven the length of the reported exposure and the fact that reported symptoms are highly consistent with acute CO poisoning, immediate medical evaluation and treatment is necessary. Delaying medical evaluation and treatment of individuals affected by the CO exposure will, more likely than not, result in irreparable harm to those individuals in the form of worsening adverse sequelae.” *Id.*

99. Dr. Weaver recommends that individuals who were exposed to CO at the Facility undergo multidisciplinary medical evaluations, including those identified above in paragraph 93 as soon as possible. *Id.*

COUNT I – PETITION FOR MANDAMUS RELIEF
(All Defendants)

100. Plaintiffs incorporate all allegations above as if fully restated and re-alleged and Plaintiffs further allege as follows:

101. “Title 28 U.S.C. § 1361 provides that ‘[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.’ 18 U.S.C. § 1361.” *Aguon v. United States Attorney’s Office*, 2017 U.S. Dist. LEXIS 168954, 6 (S.D.W. Va. 2017).

102. “The remedy of mandamus, however, ‘is a drastic one, to be invoked only in extraordinary circumstances.’ *Kerr v. United States District Court*, 426 U.S. 394, 402, 96 S.Ct. 2119, 48 L.Ed.2d 725 (1976); *also see United States v. Moussaoui*, 333 F.3d 509, 516-17 (4th Cir. 2003).” *Aguon*, at 6.

103. “Mandamus relief is only available when three elements coexist: ‘(1) the petitioner has shown a clear right to the relief sought; (2) the respondent has a clear duty to do the particular act requested by the petitioner; and (3) no other adequate remedy is available.’ *Gant v. FBI*, 992 F.Supp. 846 (S.D.W.Va. Feb. 12, 1998)(J. Haden)(*citing In re First Federal Savings & Loan*

Ass'n, 860 F.2d 135, 138 (4th Cir. 1988)); *In re Beard*, 811 F.2d 818, 826 (4th Cir. 1987)(internal quotations omitted)(‘The party seeking mandamus relief carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his right to such relief is clear and indisputable.’)” *Aquon*, at 6-7.

104. “Furthermore, mandamus will only be issued in cases where ‘the alleged duty to act involves a mandatory or ministerial obligation which is so plainly prescribed as to be free of doubt.’ *In re First Federal Savings & Loan Ass’n*, 860 F.2d at 138; also see *Central South Carolina Chapter, Soc. of Professional Journalists, Sigma Delta Chi v. United States District Court for the District of South Carolina*, 551 F.2d 559, 562 (4th Cir. 1977) (A writ of mandamus ‘will issue only where the duty to be performed is ministerial and the obligation to act peremptory and plainly defined. The law must not only authorize the demanded action, but require it; the duty must be clear and indisputable.’)” *Aquon*, at 7.

105. Plaintiffs request for mandamus relief meets all three requirements reiterated in *Aquon*, *supra*:

- a) Plaintiffs have shown a clear right to relief because they have been exposed to CO over a prolonged period of time while incarcerated at the Facility and Defendants have yet to provide them with proper diagnostic testing and treatment;
- b) Defendants have a clear duty to provide Plaintiffs with reasonable and adequate medical care (*see Farmer v. Brennan*, 511 U.S. 832, and 18 USCS § 4042(a)(2)); and
- c) Due to the nature of CO poisoning, no other adequate remedy is available.

106. Furthermore, Defendants' clear duty to provide Plaintiffs with reasonable and adequate medical care ". . . involves a mandatory [] obligation which is so plainly prescribed as to be free of doubt." *Aquon*, at 7 (internal citation omitted).

107. Despite the facts that Plaintiffs were exposed to CO over an extended period of time in August of 2021, and that some Plaintiffs have exhausted their administrative remedies, Defendants have failed to provide Plaintiffs with proper medical treatment.

108. CO exposure can result in both patent and latent symptoms that are often progressive in nature.

109. In order to meet their constitutional and statutory duties to Plaintiffs, Defendants must ensure that Plaintiffs are properly medically evaluated and that they receive adequate medical treatment.

IV. Relief Requested

110. Plaintiffs incorporate all allegations above as if fully restated and re-alleged and Plaintiffs further allege as follows:

111. An Order compelling Defendants to immediately implement and comply with the Diagnostic Protocol and administer appropriate medical care based on the results of said Protocol will ensure Defendants' fulfillment of Defendants' constitutional and statutory duties to Plaintiffs.

112. An Order compelling Defendants to immediately produce all audio and video recordings of the CO exposure to Plaintiffs' counsel in order to assist in the Plaintiffs' health care providers' assessment and treatment of the injuries Plaintiffs received as a result of the CO exposure.

113. An Order compelling Defendants to immediately permit Plaintiffs' counsel to meet with their clients, in-person, is required to the development of the facts necessary to ensure that

Plaintiffs are properly assessed and treated for the injuries they received as a result of the CO exposure.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order mandating that Defendants: (1) immediately implement the Diagnostic Protocol; (2) provide proper medical care to Plaintiffs based on the results of said Protocol; (3) immediately produce all audio and video recordings relating to the CO leak to Plaintiffs' counsel; and (4) immediately permit Plaintiffs' counsel to meet with their clients, in-person.

**JAMES D. ABNEY, et al.,
Plaintiffs,**

By Counsel:

/s/ William H. Murphy
William H. Murphy, Jr. (07985)

/s/ Andrew K. O'Connell
Andrew K. O'Connell (26168)

/s/ Ronald E. Richardson
Ronald E. Richardson (04673)
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and

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admission pending)
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